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Attorneys for Defendants  
MINEGAR ENVIRONMENTAL SYSTEMS,  
INC., and PETER J. MINEGAR

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CONCRETE WASHOUT SYSTEMS, INC., a California corporation,	)	No. CIV.S-04-1005 WBS/DAD
	)	
Plaintiff,	)	<b>JOINT APPLICATION FOR</b>
	)	<b>MODIFICATION OF STATUS</b>
v.	)	<b>(PRETRIAL SCHEDULING) ORDER;</b>
	)	<b>ORDER</b>
MINEGAR ENVIRONMENTAL SYSTEMS, INC., a California corporation, PETER J. MINEGAR, and Does 1-10,	)	
	)	Judge: Hon. William B. Shubb
Defendants.	)	
	)	
	)	

Defendants Minegar Environmental Systems, Inc. and Peter J. Minegar (collectively “Minegar”) and Plaintiff Concrete Washout Systems, Inc. (“CWS”) submit this joint application to modify the Court’s status (pretrial scheduling) order filed March 7, 2005 (the “March 7 Scheduling Order”).

1. Originally the Court ordered that all discovery, with exceptions for experts, was to be completed by April 1, 2005.

2. On March 7, 2005 the Court modified the original scheduling order to allow the parties to depose certain witnesses who could not be deposed (and any issues related to such depositions resolved) by the original April 1, 2005 fact discovery cut-off. Accordingly, the March 7 Scheduling Order continued the fact discovery cut-off date to April 29, 2005.

1           3.       On March 28 and 29, 2005, CWS took the depositions of Minegar's witnesses,  
2 defendant Peter Minegar, and third-party witness Robert Dykhouse. At those depositions,  
3 Minegar's attorney instructed the witnesses not to answer certain questions on the grounds that the  
4 questions either sought confidential trade secret information not calculated to lead to the discovery  
5 of admissible evidence or sought the substance of privileged attorney-client communications.

6           4.       On March 30, 2005, CWS filed a motion to compel answers to the deposition  
7 questions that the witnesses had refused to answer on their attorneys' instructions. CWS noticed  
8 the motion for April 22, 2005. Pursuant to Eastern District Rule 37-251(b), the parties' Joint  
9 Statement in connection with the motion is due on April 19, 2005.

10          5.       The parties had anticipated that they would receive the transcripts from the  
11 depositions in sufficient time for them to prepare the Joint Statement in connection with the  
12 motion. However, the transcripts have not yet been provided to either party and the parties have  
13 not been able to ascertain when the transcripts will be ready. Because the motion to compel  
14 concerns deposition testimony, the transcripts are vital to the Magistrate's consideration of the  
15 motion.

16          6.       Even assuming that the parties receive the transcripts today (which is highly  
17 unlikely), they will only have days to prepare the Joint Statement. CWS' counsel has represented  
18 that the earliest it could prepare its portion of the Joint Statement is Friday, April 15, 2005. Counsel  
19 for Minegar is, however, scheduled to be out of town over the weekend and on Monday, April 18,  
20 2005. Consequently, Minegar will not have adequate time to prepare its portion of the Joint  
21 Statement if the current hearing schedule is left intact.

22          7.       The parties have agreed that, with the Court's permission, they can continue the  
23 hearing on the motion to May 6, 2005, allow the Magistrate to consider questions not answered by  
24 Mr. Minegar and Mr. Dykhouse, and complete any discovery to which CWS may entitled after that  
25 hearing, if any, no later than May 13, 2005.

26          8.       Modification of the fact discovery deadline to May 13, 2005, will not affect any  
27 other dates set forth in the original scheduling order, including the date for trial. The parties  
28 completed all other fact discovery on April 1, 2005.

9. Consequently, the parties respectfully request that the Court modify the March 7 Scheduling Order to continue the fact discovery deadline to May 13, 2005 solely for the purpose of allowing the parties to resolve the issues related to the motion to compel at a hearing on May 6, 2005, and to comply with any discovery orders related thereto.

DATED: April 15, 2005

SHARTSIS, FRIESE & GINSBURG LLP

By /s/ Erick C. Howard  
ERICK C. HOWARD

Attorneys for Defendants  
MINEGAR ENVIRONMENTAL SYSTEMS, INC.  
and PETER J. MINEGAR

DATED: April 12, 2005

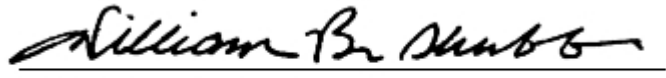
BOUTIN DENTINO GIBSON GIUSTO HODELL  
INC.

/s/ Chris Gibson  
CHRIS GIBSON

Attorneys for Plaintiff  
CONCRETE WASHOUT SYSTEMS, INC.

IT IS SO ORDERED.

Dated: April 14, 2005

  
WILLIAM B. SHUBB  
UNITED STATES DISTRICT JUDGE

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